

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FORREST W. JENKINS, et al.,

Plaintiffs,

File No. 1:03-CV-321

v.

HON. ROBERT HOLMES BELL

MACATAWA BANK CORPORATION,  
et al.,

Defendants.

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**MEMORANDUM OPINION AND ORDER**  
**REGARDING VOLUNTARY DISMISSALS**

This matter is before the Court on Third-Party Plaintiff Richard Deardorff's ("Deardorff") notice of voluntary dismissal without prejudice of certain third-party defendants. (Docket #713).

Rule 41(a)(1) of the Federal Rules of Civil Procedure provides in relevant part that:

an action may be dismissed by the plaintiff without order of the court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action.

FED. R. CIV. P. 41(a)(1).

Deardorff's notice of voluntary dismissal included Michael Sullivan. Third-Party Defendant Michael Sullivan ("Sullivan") filed an answer to Deardorff's first amended third-party complaint on September 12, 2006. (Sullivan Answer, Docket #624.) As Sullivan has

filed has filed an answer, Deardorff cannot voluntarily dismiss him pursuant to Rule 41(a)(1)(i). Accordingly,

**IT IS HEREBY ORDERED** that Third-Party Plaintiff Richard Deardorff's notice of voluntary dismissal without prejudice of certain third-party defendants (Docket #713) is **DENIED** only as to Michael Sullivan.

Date: February 23, 2007

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
CHIEF UNITED STATES DISTRICT JUDGE